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LOS ANGELES
SUPERIOR COURT

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MAY 13 1992

HUB LAW OFFICES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF LOS ANGELES
12

13 CHURCH OF SCIENTOLOGY)
14 INTERNATIONAL, a California)
not-for-profit religious)
15 corporation;)

16 Plaintiffs,)

17 vs.)

18 GERALD ARMSTRONG; DOES 1)
through 25, inclusive,)

19 Defendants.)
20)

No. BC 052395

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO QUASH DEPOSITION OF
MICHAEL J. FLYNN

Date:
Time:
Dept:
Trial Date: None
Discovery Cut Off: None

21 I. INTRODUCTION
22

23 The motion to quash should be granted because plaintiff
24 failed to comply with the statutory requirement that when a
25 deposition notices is served by mail, 15 days notice is required.

26 On May 1, 1992, plaintiff served by mail its NOTICE OF TAKING
27 THE DEPOSITION OF MICHAEL J. FLYNN; DEPOSITION SUBPENA (Exhibit A
28 to Declaration of Counsel). Said Notice of Deposition purported

1 to set the deposition of Michael J. Flynn on May 12, 1992, and
2 failed to notice said deposition for an specific time.

3 On May 7, 1992, Defendant ARMSTRONG timely and personally
4 served his NOTICE OF OBJECTIONS TO DEPOSITION OF MICHAEL J. FLYNN
5 on the office of Andrew H. Wilson, attorney for plaintiff.
6 (Exhibit B to Declaration of Counsel).

7 On May 8, 1992, Laurie J. Bartilson, attorney for Plaintiff,
8 wrote defense counsel and stated "The deposition has been set for
9 the date in question to accommodate the witness, and will not be
10 continued. If you choose not to attend, it is of course at your
11 own peril." (Exhibit C to Declaration of Counsel)

12 On May 11, 1992, defense counsel Greene telephoned
13 plaintiff's counsel Laurie J. Bartilson in an effort to meet and
14 confer regarding the scheduling of the deposition of Michael J.
15 Flynn, left a message to that effect with her secretary and a
16 requested that she return his telephone call. Ms. Bartilson did
17 not do so.

18 LEGAL ARGUMENT

19 **II. The Motion To Quash Should Be Granted;**
20 **The Deposition Is Stayed Pending A Determination Thereon**

21 It is elementary that when a deposition notice is served by
22 mail, 15 days notice must be provided. (C.C.P. §§ 2025 (f), 1013
23 (a).) In the case of the notice of the Flynn deposition, 11 days
24 notice was provided because the notice was served by mail on May 1
25 which noticed the deposition for May 12.

26 On May 7, pursuant to Code of Civil procedure section 2025
27 (g) defendant timely and personally served his notice of
28 objections on plaintiff's counsel Wilson. Said objections were

1 predicated upon two grounds: (1) the lack of adequate notice and
2 (2) the failure to state a time in the notice of deposition.

3 Code of Civil Procedure section 2025 (g) specifically
4 authorizes a party to bring a motion to quash a deposition on the
5 ground that inadequate notice has been given as required by Code
6 of Civil procedure sections 2025 (f) and 1013 (a). In such case
7 "The taking of the deposition is stayed pending the determination
8 of this motion." (C.C.P. § 2025 (g).)

9 III. MONETARY SANCTIONS SHOULD BE AWARDED

10 C.C.P. sections 2023 and 2025 authorizes an award of monetary
11 sanctions against any party or attorney who unsuccessfully makes
12 or opposes a motion to quash a deposition notice.

13 In this case, defendant timely served his objections in
14 response to which plaintiff's counsel Bartilson stated that the
15 deposition would not be continued. Although defense counsel
16 Greene telephoned Bartilson in an effort to develop an alternative
17 to the instant motion, she chose not to return his call.

18 CONCLUSION

19 Based upon all of the foregoing, defendant ARMSTRONG
20 respectfully submits that Court grant his motion to quash the
21 Deposition Subpoena of Michael J. Flynn and Order the payment of
22 reasonable monetary sanctions.

23 DATED: May 11, 1992

24 By: 

PAUL MORANTZ and FORD GREENE
Attorneys for Defendant
GERALD ARMSTRONG